IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.1 OF 2005
IN
LETTERS PATENT APPEAL NO.170 OF 1996
IN
WRIT PETITION NO.1347 OF 1996

M/s. DBH International Ltd. .. Petitioner

Vs

Their Workmen, represented by
The Transport and Dock Workers'
Union & Anr. .. Respondents

Mr.C.U.Singh with Ms.Melanie D'Souza i/b
M/s.Haresh Mehta & Co. for the petitioner.

Mr.S.M.Dharap for respondent no.1.

CORAM : S.B.MHASE &
D.B.BHOSALE, JJ.

DATE : MAY 4, 2005.

ORAL ORDER (PER S.B.MHASE, J.)

. Heard.

2. This review petition is filed on the ground that the compensation cannot be more than back wages. What we have noted is that the actual working has stopped on 30th April, 1992. The licence has expired on 31st December, 1993 and, therefore, Mr.Singh, learned counsel for the petitioner contends that the compensation can be granted till the work was carried

on and alternatively he submits that compensation be granted till the period licence was valid. Mr.Dharap, learned counsel for respondent-employees submitted that the back wages till 31st December, 1995 were directed to be paid by the Single Judge because if the reinstatement would have been granted by the Single Judge then not only back wages were required to be paid but thereafter if the employer desires to retrench them further then section 25F of the Industrial Disputes Act was necessary to be followed. Taking this into consideration, therefore, the concession was given on behalf of the employees only if it is settled on that terms. What we find that taking into consideration the overall view, namely, compensation is to be paid in lieu of reinstatement equally the compensation is to be paid in lieu of retrenchment which would have been necessary for the purpose of retrenching the services, if the reinstatement with back wages would have been granted and thus calculated, whatever compensation was fixed is just and proper. We make it clear that it is not simplicitor compensation in back wages but it includes compensation for retrenchment, had that been granted by us, hence there is no substance in review petition. The review petition is dismissed as such.

3. At this stage Mr.Singh submitted that further time may be granted for approaching the Apex Court and till then the orders in main Letters Patent Appeal be stayed. Mr.Dharap opposed the prayer for granting stay. However, in the interest of justice four weeks time is granted. Till then our order passed in Letters Patent Appeal No.170 of 1996 is stayed for a period of four weeks.

(D.B.BHOSALE, J.) **(S.B.MHASE, J.)**

/hcs/mar